

FIREFIGHTER LINE OF DUTY DEATH AND SERIOUS INJURY GUIDELINES

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STATE OF NEW JERSEY

James E. McGreevey
Governor

DEPARTMENT OF COMMUNITY AFFAIRS

Susan Bass Levin, *Commissioner*

DIVISION OF FIRE SAFETY

Lawrence Petrillo, *Director*



INTRODUCTION

The serious injury or death of a firefighter in the line-of-duty is a tragedy all members of the fire service dread. The family is disorganized by grief. The community and surviving fire department members are in mourning. The fire department can be thrown into shock. It must, however, continue to provide normal services as well as deal with the serious injury or death.

It is the fire department, however, that must be depended upon to ensure that no details are overlooked when it comes time for the injured firefighter or the family to obtain the benefits to which they are entitled. Beginning in the hours following such a tragedy, essential facts must be gathered and preserved.

To prepare for an event of this nature each fire department should develop written procedures and appoint a group of individuals to provide the family with assistance in completing the necessary claim forms, and any other aid that may be needed. This group should have information on all insurance policies held by the department, the type of coverage and exclusions, and should have knowledge of the application procedures. The procedure should identify group members and their responsibilities **by title and position** within the department, not by name.

Department procedures need to be developed in order to ensure that each required task is completed. The procedures should include at minimum the following:

- A listing of agencies that must be notified.
- A listing of insurance benefits that are available and the procedures for filing claims.
- Procedures for the preparation of press releases and dealing with the media.
- Procedures for notifying family members and providing assistance for family members when requested.
- A listing of various sources of information for any records or investigative reports that may be necessary for filing claims for benefits.
- Procedures for securing permission for an autopsy from family members.
- Contacts for various religious representatives.

Some fire department activities may not be covered by some insurance policies or the Public Safety Officers' Benefits Act unless members are authorized to participate by the chief. Department procedures should be in place identifying all official activities that do not involve responses to emergency incidents. Records concerning these duties and the members participating should also be maintained.

If your department experiences a line-of-duty death the incident may take the form of one of the following scenarios:

- Firefighter dies at the scene of the incident.
- Firefighter dead on arrival at the hospital.
- Firefighter is alive upon arrival at the hospital, but expires later.
- Firefighter's injuries were not detected at the scene and dies later at the fire station, at work or home.

In each of these cases it is essential that the exact cause of death is documented. With the family's permission, it is very important that an autopsy and a toxicological examination be requested. The toxicological examination must include a test for the specific levels of carbon monoxide and alcohol in the blood. The New Jersey State Medical Examiner has issued guidelines to each county medical examiner's office outlining the protocol to be followed and the tests to be administered in case of firefighter line-of-duty deaths. These tests are required for submission of the Public Safety Officers' Benefit claims.

It is very important to use restraint when making statements concerning the incident. The only facts that should be supplied to other agencies are those that allow them to perform their official function. DO NOT speculate or give opinions concerning the incident or cause of death. If the facts are not known, that should be stated.

The Division has prepared the following check list for fire department personnel to use when such an incident occurs. The list is intended to supplement any procedures developed by your department and can be used to verify that each of the tasks that needs to be addressed is completed. Please feel free to use the listing or modify it to suit the specific needs of your department.

If your department has any questions concerning the serious injury or death of a firefighter, please contact the Division of Fire Safety's Fire Department Programs Unit at (609) 633-6070 for assistance.

AGENCIES TO NOTIFY

The following agencies should be notified in the event of a line-of-duty death. Where indicated, these agencies should also be notified of any serious injury to a firefighter.

- The mayor, municipal administrator or manager or the chairperson of the board of fire commissioners, should be notified as soon as possible following an incident involving death or serious injury.
- Notify the county fire marshal, county prosecutor, local police department, local fire official, or any other agencies as outlined in the county's, municipality's or your department's procedures.
- All fire departments are subject to the **mandatory reporting** requirements under N.J.S.A. 34:6A-25 et seq. Public Employees' Occupational Safety and Health Act and Regulations specifically at N.J.A.C. 12:110-5.8. All **work-related** public employee (firefighter, career **or** volunteer) fatalities or three or more in-patient hospitalizations shall be **reported orally and in writing, within eight hours of occurrence** to the Commissioner of Labor or his or her designee by the public sector employer.

For purposes of clarification the work-related environment is comprised of the physical location, equipment, materials processed or used, and the kinds of operations performed in the course of an employees' work, whether on or off the employer's premises. Work-related injuries and illnesses arise from an event or exposure in the work environment. The work environment is the employer's premises or other location where employees are engaged in work-related activities or are present as a condition of their employment. **In the event that the individual responsible for reporting is not sure as to whether the incident is work-related or not, a report is to be made.**

The oral reports shall be made directly to the 24-hour hotline number **1-800-624-1644**. The written report shall be made on the Employer's First Report of Accidental Injury or Occupational Disease. The completed form must be faxed to the Office of Public Employees Safety at **1-609-292-4409**. **PUBLIC SECTOR EMPLOYERS WILL BE SUBJECT TO AN INITIAL PENALTY OF \$250.00 PER DAY FOR EACH VIOLATION OF THESE MANDATORY REQUIREMENTS.** Any employer who willfully or repeatedly violates the requirements of the Public Employees' Occupational Safety and Health Act shall be assessed a civil administrative penalty of up to \$70,000.00 for each violation pursuant to N.J.S.A. 34:6A-41d.

- Public law requires the Division of Fire Safety; the NJ Department of Labor, Office of Public Employees Safety; and other state agencies, to conduct investigations following incidents that result in serious injury or line-of-duty death of a firefighter. Notify the Division of Fire Safety's Fire Department Programs Unit, during normal business hours, at (609) 633-6070 as soon as possible after the incident in all cases of firefighter death or serious injury. The Division will notify the other appropriate state and federal agencies for the fire department. The Division will also provide assistance.
- The United States Fire Administration and the National Fire Academy request telephone notification in the event of line-of-duty deaths. The notification is requested in order for the flags over the Fallen Firefighters Memorial to be lowered in respect for the fallen member. The Division of Fire Safety is tasked with making this call for your department when you report the incident to our office.
- In the event of a line-of-duty death, the department must notify the Public Safety Officers' Benefits Program at (202) 307-0635 to begin the claims process.
- Notify the carrier of your department's workers' compensation coverage.

- If your department has supplementary insurance coverage, notify those insurance companies to begin the claims process.
- Contact a critical incident stress debriefing (CISD) team immediately to provide assistance to your members. The emergency number for contacting the CISD team network is (609) 394-3600.
- Notify the secretary of the fire department's relief association.
- Contact the firefighter's union representative, if appropriate.
- Contact the NJ State Fire Chiefs' Association, if the person was a member.
- Notify any other persons or agencies that may be needed to complete the investigation (e.g., electric utility, building owner, other local, county or state agencies, department/municipal physician, *etc.*).
- Contact any other fraternal or social organizations that the victim may have been a member of or that can provide assistance to the family or the department.

BENEFITS

Public Safety Officers' Benefits

The Public Safety Officers' Benefits (PSOB) Act of 1976 was enacted to provide benefits to the qualified survivors of public safety officers killed in the line-of-duty. This act provides for a payment, adjusted yearly to reflect cost of living increases, to the next of kin of the deceased public safety officer. After the September 11th terrorist attacks, Congress passed a bill to raise the benefit amount up to \$250,000 which President George W. Bush subsequently signed. This benefit increases based upon cost of living percentages annually. The current benefit amount is \$267,494. There are specific requirements to be met for this benefit to be paid.

Who is Covered

The Public Safety Officers' Benefits Act covers any public safety officer serving a public agency in an official capacity, with or without compensation. Volunteer firefighters are eligible if they are members of a legally organized volunteer fire department. The act also covers members of public rescue squads or ambulance crews while responding to fire, police, or rescue emergencies.

To qualify, a firefighter's death must result from injuries sustained in the line-of-duty. "Line-of-duty" is defined as any action that the firefighter is authorized or obligated to perform by law, rule, regulation or condition of employment or service.

The Hometown Heroes Survivors Benefits Act of 2003 (HHA) amended the PSOB Act. If a public safety officer dies as a direct and proximate result of a **heart attack or stroke**, that officer shall be presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty if:

- that officer, while on duty-
 - engaged in a situation, and such engagement involved non-routine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity*;
 - participated in a training exercise, and such participation involved non-routine stressful or strenuous physical activity*;

- that officer died as a result of a heart attack or stroke suffered—
 - while engaging or participating in such activity as described above
 - while still on that duty after so engaging or participating in such an activity, or
 - not later than 24 hours after so engaging or participating in such an activity; and
- such presumption is not overcome by competent medical evidence to the contrary.

*Non-routine stressful or strenuous physical activities exclude actions of a clerical, administrative, or non-manual nature.

The HHA provision only covers deaths occurring on or after December 15, 2003. The HHA is not retroactive, and therefore it does not apply to deaths occurring before the aforementioned date.

Eligible Survivors

Once approved by the U.S. Department of Justice, the claim is paid in a lump sum as follows:

- All benefits are paid to the spouse if there are no surviving children.
- If there is a surviving child or children and a surviving spouse, one-half of the benefits are paid to the spouse and one-half is paid to the child or children in equal shares.
- If there is no surviving spouse, the child or children will be paid the entire amount in equal shares.
- If there is no surviving spouse or children the benefits will be paid to the parent or parents of the firefighter in equal shares.

Filing a Claim

In order to apply for benefits either a survivor may file a claim directly with the Department of Justice or the claim may be filed by the fire department for the family. Since the fire department must submit much of the supporting documentation it is advisable to submit the family and fire department's documents together as one package. To initiate a claim contact the PSOB staff at (202) 307-0635.

Supporting Documentation

When submitting a claim it will be necessary to provide supporting documentation, such as fire reports, investigative reports, as well as an autopsy and toxicology report. The Department of Justice may at any time require additional documents or evidence to support the claim.

In cases involving a non-traumatic injury, such as a heart attack, it is also necessary to measure the level of carbon monoxide saturation in the blood. The specific levels of carbon monoxide (CO) in the blood expressed in an exact percentage should always be requested. If the member is hospitalized with injuries sustained in the line-of-duty, and there is any chance of coronary involvement, this test should also be requested.

In all cases, it is necessary to obtain a blood sample and test for blood alcohol level (not merely the presence of alcohol in the blood) and to detect any illicit drug use. Again, an exact percentage of alcohol or drugs in the blood should be requested.

It is also prudent to impound and secure any equipment involved in a firefighter fatality, or serious injury (e.g., personal protective equipment, SCBA, fire apparatus), as well as communications and other records of the

incident (e.g., tapes, dispatch report, incident reports, casualty report). Failure to do so may make it difficult to determine the cause and/or contributing factors of the fatality or injury.

Local Insurance

Most fire departments or municipalities carry supplemental insurance policies. If your fire department carries supplementary insurance, the insurance company should be notified to start the claim process. When developing the department procedures, these supplemental policies should be identified and the proper procedures for filing a claim should be outlined.

New Jersey State Firemen's Association

The New Jersey State Firemen's Association (NJSFA) provides death benefits for members. To initiate a claim notify the secretary of your local relief association.

Workers' Compensation

Workers' compensation is a system created to provide benefits to workers who are injured or contract an occupational disease. The benefits provided include medical care, temporary disability payments and compensation for a permanent disability. Benefits may be paid voluntarily, however, in some cases it may be necessary to apply to the Workers' Compensation courts for relief.

Any loss of time injury must be reported to the municipality's workers' compensation carrier. In some cases the municipality is self insured for workers' compensation, in which case your department should contact the municipal office responsible for handling such claims. Initial notification is usually required within 24 hours of the injury or suspected injury. Additional notification, and follow up reports, should be made as soon as possible but no later than 90 days after the event. Notification must also be made in the case of death to secure any benefits for medical expenses.

The following compensation benefits are provided through Workers' Compensation:

- Medical Benefits
- Temporary Disability Benefits
- Permanent Partial Benefits
- Permanent Total Benefits
- Death Benefits

When a work related accident results in the firefighter's death, benefits are payable to the dependents as defined by law. Funeral expenses for a job-related death are payable by the employer or the employer's insurance carrier up to a maximum of \$3,500.

AGENCY LISTING

New Jersey Division of Fire Safety
Fire Department Programs
101 S Broad Street
CN-809
Trenton, New Jersey 08625-0809
(609) 633-6070

New Jersey Department of Labor
Office of Public Employees Safety
CN-386
Trenton, NJ 08625-0386
(609) 292-7036

U.S. Department of Justice
Bureau of Justice Assistance
Public Safety Officers' Benefits Program
Washington, D.C. 20531
(202) 307-0635

New Jersey Department of Labor Division of Workers' Compensation District Offices

Atlantic District Office
1201 Bacharach Blvd
Atlantic City, N.J. 08401-7084
(609) 441-3160
(Atlantic County)

Hackensack District Office
60 State Street
Hackensack, N.J. 07601-5427
(201) 342-6805
(Bergen County)

Paterson District Office
370 Broadway
Paterson, N.J. 07501-2105
(973) 977-4526
(Passaic County)

Burlington District Office
851 York Road
Burlington, N.J. 08016
(856) 387-3256
(Burlington County)

Jersey City District Office
910 Bergen Ave, 3rd Flr
Jersey City, N.J. 07306-0603
(201) 653-5006
(Hudson County)

Somerville District Office
Court House Square
75 Franklin St, Suite 101
Somerville, N.J. 08876-2945
(908) 704-3011
(Hunterdon, Somerset,
Sussex
& Warren Counties)

Camden District Office
Parkade Building
Camden, N.J. 08102-1217
(856) 757-2827
(Camden, Cape May,
Gloucester, & Salem Counties)

Morristown District Office
7 Sussex Ave, 2nd Flr
Morristown, N.J. 07960-3896
(973) 539-4031
(Morris County)

Toms River District Office
125 Washington Street
Toms River, N.J. 08753-6581
(908) 349-9592
(Ocean & Cumberland
Counties)

Elizabeth District Office
210 Commerce Place
Elizabeth, N.J. 07201-2398
(908) 820-3065
(Union County)

Newark District Office
1207 Raymond Blvd., 2nd Flr
Newark, N.J. 07102-3898
(973) 648-2663
(Essex County)

Trenton District Office
Station Plaza, 28 Yard Ave
Trenton, N.J. 08625-0958
(609) 292-2508
(Mercer County)

Freehold District Office
Monmouth County Courthouse
Freehold, N.J. 07728-0738
(908) 462-9321
(Monmouth County)

New Brunswick District Office
506 Jersey Ave
New Brunswick, N.J. 08901-3502
(908) 937-6333(Middlesex County)

FIRE DEPARTMENT FUNERAL PROTOCOL INFORMATION

For information to assist with coordinating firefighter wake services and funeral considerations, the following publications are available free of charge or for a nominal fee to fire departments. Requests should be on department letterhead.

Final Farewell to a Fallen Firefighter
A Basic Fire Department Funeral Protocol
By William C. Peters

Requests for this publications, including a \$2.00 check or money order to cover handling and postage, should be made to:

Fire Engineering
Funeral Booklet Requests
Park 80 West, Plaza 2, 7th Floor
Saddle Brook, NJ 07662

The Exempt Firefighter's Wake Service

Requests for this publication should be made to:
New Jersey Exempt Fireman's Association
178 William Street
Perth Amboy, NJ 08861

Naturally it would be wise to obtain these publications prior to any need for them, and keep them with the fire department's written procedures for future reference.

DIVISION OF FIRE SAFETY INVESTIGATION

Pursuant to N.J.S.A. 52:27.D-102, *et. seq.*, Duties of the Division of Fire Safety, the Division of Fire Safety is required to perform firefighter serious injury and fatality investigations. In addition to the Division of Fire Safety, the Department of Labor's Division of Workplace Standards, Office of Public Employee's Safety and the Department of Health's Division of Epidemiology, Environmental and Occupational Health Services, Occupational Health Service will also be involved. The Departments of Health and Labor become involved when their regulations play a part in the protection of the firefighter from the hazard(s) involved. In addition, for three special circumstances (*i.e.*, fatalities involving confined spaces, electrocutions and falls), the Department of Health's Division of Epidemiology, Environmental and Occupational Health Services, Occupational Health Service, Fatality Assessment and Control Evaluation Program, working under an agreement with the National Institutes of Health, may be involved in investigations where their regulations apply. The Division of Fire Safety acts as the lead agency and contact in these investigations.

These investigations are carried out for the purpose of finding the cause or causes of casualties in order to prevent similar events from recurring. In some cases, the Department of Health or the Department of Labor may issue penalties and orders to correct violations.

FIREFIGHTER SERIOUS CASUALTY CHECK-LIST**INCIDENT SCENE CHECK-LIST**

Incident Number:	Date:	Time:
Incident Location:		
Firefighter Name:		
Incident Commander:		

- ☐ **KEEP RADIO TRAFFIC TO A MINIMUM REGARDING THE FIREFIGHTER INVOLVED TO PROTECT THE FAMILY & KEEP "GAWKERS" AWAY. USE CELLULAR PHONES OR LANDLINE TELEPHONES WHEN POSSIBLE.**

- ☐ **SEND FIRE DEPARTMENT REPRESENTATIVE TO HOSPITAL:**
Send fire department officer or member along with firefighter (or immediately thereafter) to hospital in order to look after firefighter's needs and to provide initial fire department liaison at hospital.

Fire Department Contact:	Hospital Phone:
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- ☐ **SECURE SCENE:**
Protect scene. Do not alter, add or remove anything from the scene, or allow anyone else to do so. Do not release custody of scene until authorized by Incident Commander to turn over scene to proper authority (fire official, police department, county prosecutor).
- ☐ **PHOTOGRAPHS:**
Notify appropriate agency/personnel (fire official, police department, county prosecutor) to have a photographer document all areas and equipment which may be pertinent to the investigation. Using a video recorder to document the scene would also be beneficial.
- ☐ **IMPOUND EQUIPMENT:**
Impound all personal and department property used by the firefighter, as well as any other items that may have played a part in the firefighter's injury/death or that may be significant to the incident investigation. Items impounded by the fire

department must be secured by the fire department, or police department, and held in the same manner as any other legal evidence (chain of custody, *etc.*).

☐ **DOCUMENTATION:**

The immediate supervisor of the firefighter as well as the incident commander must be instructed to document all observations, decisions, orders and actions as well as any other pertinent information immediately. Notify dispatch center to hold radio communications tape. Any other significant reports, documents, *etc.*, shall also be required to be prepared.

Title/Name of Person Assigned to Hold Radio Tape:

Position/Name:	Report Assigned:
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Position/Name:	Report Assigned:
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Position/Name:	Report Assigned:
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NOTIFICATIONS☐ **FIRE CHIEF:**

If the department chief is not on duty at the time of the incident, immediate notification shall be made.

Home Phone:	Pager:
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☐ **FIRE OFFICIAL:**

If the fire official has not already responded, have the dispatcher apprise the fire official of the situation and have him\her respond.

Name:	Phone:
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☐ **SAFETY OFFICER:**

Contact Fire Department Safety Officer, or designee, if not present at the incident scene.

Name:	Phone:
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☐ **POLICE DEPARTMENT:**

If the police department has not already responded, have the dispatcher apprise them of the situation and have them respond.

☐ **VITAL INFORMATION RECORD:**

Obtain Firefighter's Vital Information Record (if the department utilizes one and if not available on scene), copy pertinent phone numbers, *etc.*, and forward to Fire Department contact at hospital.

☐ **PERSONALLY CONTACT FAMILY:**

By Fire Chief (or designee). Fire department officer making contact:

Name:	Phone:
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Family member notified:

Name:	Phone:
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☐ **TRANSPORTATION:**

Arrange transportation for family member(s) (if needed).

☐ **FAMILY ESCORT(S):**

Fire department (and police department if necessary) escort(s) should be provided to assure family's privacy, and to assist with any needs.

☐ **CHILD CARE:**

Provide immediate child care for firefighter's family (if needed). Initially, may assign fire department or police department personnel, until family/friends are available.

☐ **CONTACT COUNTY:**

Contact County Fire Marshal/Arson Unit and County Prosecutor's Office.

☐ **MUNICIPAL EXECUTIVE:**

Notify mayor, municipal manager or administrator, *etc.*

☐ **MEDIA:**

Refer all media contacts to appropriate fire department officer (chief, public information officer, *etc.*) or municipal public information officer.

Public Information Officer:	Phone:
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☐ **OTHER CONTACTS:**

Name:	Phone:
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AT HOSPITAL CHECK LIST

For Use by Fire Department Hospital Liaison

Incident Number:	Date:	Time:
Incident Location:		
Firefighter Name:		

☐ **Name of Emergency Room Attending Physician:**

Name:	Phone:
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☐ **CONTINUE TO IMPOUND EQUIPMENT:**

Continue to impound firefighter's equipment as removed at the hospital to ensure chain of evidence.

☐ **MAKE CONTACT WITH DISPATCH CENTER:**

Provide contact number at hospital to ensure reliable and timely communications.

☐ **IF POSSIBLE CARDIAC RELATED:**

Emergency room Physician **MUST** order blood work for determining carbon monoxide level (specific percentage necessary) and blood alcohol level (specific percentage necessary).

IN CASE OF DEATH:

Autopsy **MUST** be ordered in order to be eligible for PSOB benefits. Secure permission from family for the autopsy and the release of the report.

☐ **MEDIA:**

Refer all media contacts to appropriate fire department officer (chief, public information officer) or municipal public information officer.

☐ **OTHER CONTACTS:**

Name:	Phone:
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Name:	Phone:
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POST INCIDENT CONTACTS

Incident Number:	Date:	Time:
Incident Location:		
Incident Commander:		
Firefighter Name:		

SERIOUS INJURY

- ☐ **NEW JERSEY DIVISION OF FIRE SAFETY:**
Contact at (609) 633-6071 to report serious injury and to obtain assistance.
- ☐ **NEW JERSEY DEPARTMENT OF LABOR:**
Contact at 1-(800) 624-1644 to report serious injury requiring hospitalization.
- ☐ **WORKERS' COMPENSATION:**
Follow established procedures for notifying carrier of workers' compensation coverage to begin claim procedure.

Name:	Phone:
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Claim Number (if any):

- ☐ **FIRE DEPARTMENT INSURANCE CARRIER:**
Notify private fire department insurance carrier of situation and begin claim process.

Name:	Phone:
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Claim Number (if any):

- ☐ **CRITICAL INCIDENT STRESS DEBRIEFING TEAM:**

Request CISD team to respond via its 24 hour emergency phone number, (609) 394-3600.

☐ **MUNICIPAL INSURANCE CARRIER:**

Notify municipal insurance carrier of situation and begin claim process.

Name:	Phone:
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Claim Number (if any):

☐ **OTHER CONTACTS:**

Name:	Phone:
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Name:	Phone:
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☐ **CHAPLAIN:**

Contact fire department chaplain(s) and/or firefighter's Priest, Minister, Rabbi, *etc.*

Name:	Phone:
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DEATH

☐ **NEW JERSEY DIVISION OF FIRE SAFETY:**

Contact at (609) 633-6071 to report death and to obtain assistance.

☐ **NEW JERSEY DEPARTMENT OF LABOR:**

Contact at 1-(800) 624-1644 to report death.

☐ **WORKERS' COMPENSATION:**

Follow established procedures for notifying carrier of workers' compensation coverage to begin claim procedure.

Name:	Phone:
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Claim Number (if any):

☐ **CRITICAL INCIDENT STRESS DEBRIEFING TEAM:**

Request CISD team to respond via its 24 hour emergency phone number, (609) 394-3600.

☐ **FIRE DEPARTMENT INSURANCE CARRIER:**

Notify private fire department insurance carrier of situation and begin claim process.

Name:	Phone:
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Claim Number (if any):

☐ **MUNICIPAL INSURANCE CARRIER:**

Notify municipal insurance carrier of situation and begin claim process.

Name:	Phone:
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Claim Number (if any):

☐ **PUBLIC SAFETY OFFICERS BENEFITS PROGRAM (POB):**

Contact POB at (202) 307-0635 to begin processing of claim under federal POB statutes.

Name:	Phone:
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Claim Number (if any):

☐ **CHAPLAIN:**

Contact fire department chaplain(s) and/or firefighter's Priest, Minister, Rabbi, *etc.*

Name:	Phone:
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☐ **UNION:**

Firefighter's union (if appropriate). Phone number:

Union:	Phone:
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☐ **OTHER:**

Name:	Phone:
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